

or otherwise terminated. Material created by a party for the purpose of an ADR proceeding is to be used solely for that proceeding unless the parties agree otherwise. Parties may request a protective order in an ADR proceeding in the manner provided in 6101.12(h).

(c) *Types of ADR.* ADR is not defined by any single procedure or set of procedures. The Board will consider the use of any technique proposed by the parties which is deemed to be fair, reasonable, and in the best interest of the parties, the Board, and the resolution of contract disputes. The following are examples of available techniques:

(1) *Mediation.* The Board Neutral, as mediator, aids the parties in settling their case. The mediator engages in *ex parte* discussions with the parties and facilitates the transmission of settlement offers. Although not authorized to render a decision in the dispute, the mediator may discuss with the parties, on a confidential basis, the strengths and weaknesses of their positions. No judge who has participated in discussions about the mediation will participate in a Board decision of the case if the ADR is unsuccessful.

(2) *Neutral case evaluation.* The parties agree to present to the Board Neutral information on which the Board Neutral bases a non-binding, oral, advisory opinion. The manner in which the information is presented will vary from case to case depending upon the agreement of the parties. Presentations generally fall between two extremes, ranging from an informal proffer of evidence together with limited argument from the parties to a more formal presentation of oral and documentary evidence and argument from counsel, such as through a mini-trial.

(3) *Binding decision.* One or more Board judges render a decision which, by prior agreement of the parties, is to be binding and non-appealable. As in the non-binding evaluation of a case by a Board Neutral, the manner in which information is presented for a binding decision may vary depending on the circumstances of the particular case.

(4) *Other procedures.* In addition to other ADR techniques, including modifications to those listed in this section, as agreed to by the Board and parties, the parties may use ADR techniques

that do not require direct Board involvement.

(5) *Selective use of standard procedures.* Parties considering the use of ADR are encouraged to adapt for their purposes any provisions in part 6101 which they believe will be useful. This includes but is not limited to provisions concerning record submittals, pretrial discovery procedures, and hearings.

PART 6103—RULES OF PROCEDURE FOR TRANSPORTATION RATE CASES

Sec.

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AUTHORITY: 31 U.S.C. 3726(g)(1); 41 U.S.C. 601–613; Sec. 202(o), Pub. L. 104–316, 110 Stat. 3826.

SOURCE: 62 FR 25867, May 12, 1997, unless otherwise noted.

6103.1 Scope [Rule 301].

(a) *Authority.* Section 202(o) of the General Accounting Office Act of 1996, Public Law 104–316, transfers certain functions of the Comptroller General contained in 31 U.S.C. 3726(g)(1) to the Administrator of General Services, who has redelegated those functions to the General Services Administration Board of Contract Appeals.

(b) *Type of claim; review of claim.* These procedures are applicable to the review of claims made by a carrier or freight forwarder pursuant to 31 U.S.C. 3726(g)(1). The Board will issue the final agency decision on a claim based on the information submitted by the claimant, the Audit Division of the General Services Administration Office of Transportation and Property Management (the Audit Division), and the department or agency (the agency) for which the services were provided. The burden is on the claimant to establish

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the timeliness of its claim, the liability of the agency, and the claimant's right to payment.

[62 FR 25867, May 12, 1997, as amended at 64 FR 38143, July 15, 1999]

6103.2 Filing claims [Rule 302].

(a) *Form.* A claim shall be in writing and must be signed by the claimant or by the claimant's attorney or authorized representative. No particular form is required. The request should describe the basis for the claim and state the amount sought. The request should also include:

- (1) The name, address, telephone number, and facsimile machine number, if available, of the claimant;
- (2) The Government bill of lading or Government transportation request number;
- (3) The claimant's bill number;
- (4) The Government voucher number and date of payment;
- (5) The Audit Division claim number;
- (6) The agency for which the services were provided; and
- (7) Any other identifying information.

(b) *When and where claims are filed.* A claim is filed when it is received by the Office of the Clerk of the Board during the Board's working hours. Claims should be sent to the Board at the following address: Office of the Clerk of the Board, Room 7022, General Services Administration Building, 1800 F Street, NW, Washington, DC 20405. The Clerk's telephone number is: (202) 501-0116. The Clerk's facsimile machine number is: (202) 501-0664. The Board's working hours are 8:00 a.m. to 4:30 p.m., Eastern Time, on each day other than a Saturday, Sunday, or federal holiday.

(c) *Notice of docketing.* A claim will be docketed by the Office of the Clerk of the Board, and a written notice of docketing will be sent promptly to the claimant, the Director of the Audit Division, and the agency for which the services were provided. The notice of docketing will identify the judge to whom the claim has been assigned.

(d) *Service of copy.* The claimant shall send to the Audit Division and the agency identified in paragraph (a)(6) of this section copies of all material provided to the Board. All submissions to the Board by a claimant shall indicate

that a copy has been provided to the Audit Division and the agency.

[62 FR 25867, May 12, 1997, as amended at 64 FR 38143, July 15, 1999]

6103.3 Responses to claims [Rule 303].

(a) *Content of responses.* Within 30 calendar days after docketing by the Board (or within 60 calendar days after docketing if the agency office for which the services were provided is located outside the 50 states and the District of Columbia), the Audit Division and the agency for which the services were provided shall each submit to the Board:

- (1) A simple, concise, and direct statement of its response to the claim;
- (2) Citations to applicable statutes, regulations, and cases; and
- (3) Any additional information deemed necessary to the Board's review of the claim.

(b) *Service of copy.* All responses submitted to the Board shall indicate that a copy has been sent to the claimant and to the Audit Division or the agency, as appropriate. To expedite proceedings, if either the Audit Division or the agency will not file a response (e.g., it believes its reasons for denying the claim were sufficiently explained in the material filed by the claimant), it should notify the Board, the claimant, and the Audit Division or the agency, as appropriate, that it does not intend to file a response.

[62 FR 25867, May 12, 1997, as amended at 64 FR 38143, July 15, 1999]

6103.4 Reply to Audit Division and agency responses [Rule 304].

A claimant may file with the Board and serve on the Audit Division and the agency a reply to the Audit Division and agency responses within 30 calendar days after receiving the responses (or within 60 calendar days after receiving the responses, if the claimant is located outside the 50 states and the District of Columbia). To expedite proceedings, if the claimant does not wish to respond, the claimant should so notify the Board, the Audit Division, and the agency.

[64 FR 38143, July 15, 1999]